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IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
GREENSBORO DIVISION  
CIVIL ACTION, FILE NUMBER 1:03 MC 138

IN RE:

SUBPOENA TO UNIVERSITY OF NORTH  
CAROLINA AT CHAPEL HILL

RECORDING INDUSTRY  
ASSOCIATION OF AMERICA

v.

UNIVERSITY OF NORTH CAROLINA AT  
CHAPEL HILL

**CONSENT MOTION FOR LEAVE  
TO FILE BRIEF AS *AMICI CURIAE***

Motion Picture Association of America, Inc., AFMA, Screen Actors Guild, Inc., Directors Guild of America, Inc., Writers Guild of America, west, Inc., Authors Guild, American Federation of Television and Radio Artists, American Federation of Musicians of the United States and Canada, Broadcast Music, Inc., Association for Independent Music, Recording Artists Coalition, SESAC, Electronic Software Association, Association of American Publishers, American Society of Media Photographers, Inc., Professional Photographers of America, and Office of the Commissioner of Baseball respectfully request permission to file a brief as *amici curiae* in support of the Recording Industry Association of America ("RIAA") in the above-captioned matter, which seeks an order quashing a subpoena issued to the University of North Carolina at Chapel Hill pursuant to 17 U.S.C. § 512(h). The brief *amici* seek leave to file is submitted with this motion.

*Amicus* Motion Picture Association of America, Inc. ("MPAA") is a not-for-profit trade association that serves as the voice and advocate of the major American motion picture studios. The MPAA represents not only the theatrical film industry, but also serves as a leader and advocate for the principal producers and distributors of entertainment programming for television, cable, home video, and digital versatile disks ("DVDs"). The members of the MPAA include Sony Pictures Entertainment Inc., Metro-Goldwyn-Mayer Studios Inc., Paramount Pictures Corporation, Twentieth Century Fox Film Corporation, Universal City Studios, Inc., Warner Brothers, and an affiliate of The Walt Disney Company. All of the MPAA member companies own famous intellectual property and rely heavily on state and federal laws for the protection of that property. The MPAA works to support and protect the copyright interests of its members in a variety of ways. Among other things, the MPAA operates comprehensive anti-piracy programs, works to strengthen copyright protection through legislative activity, assists in the investigation and prosecution of piracy, and works to develop and strengthen anti-piracy security measures. The MPAA spends tens of millions of dollars annually on anti-piracy efforts alone. Internet piracy in particular presents a grave and growing threat to the motion picture industry, which spends billions of dollars annually making and distributing motion pictures and other copyrighted programming worldwide. Independent analysts estimate that between 400,000 and 600,000 times daily there is an unauthorized download of a copyrighted motion picture.

*Amicus* AFMA is a trade association representing more than 150 independent producers and distributors of motion pictures and television programming who produce more than 400 independent motion pictures and countless hours of diverse television programming annually.

*Amici* Screen Actors Guild, Inc., Directors Guild of America, Inc., Writers Guild of America, west, Inc., Authors Guild, American Federation of Television and Radio Artists, American Federation of Musicians of the United States and Canada, and SESAC are labor organizations that collectively represent hundreds of thousands of individuals who earn a living in entertainment and the arts and whose compensation is tied inextricably to the protection of intellectual property rights and the prevention of unauthorized copying of the works that they create.

*Amicus* Broadcast Music, Inc. represents approximately 300,000 songwriters, composers, and music publishers.

*Amicus* Association for Independent Music is a national trade organization that represents independent record labels and is dedicated to the vitality of the independent music community.

*Amicus* Recording Artists Coalition is a nonprofit, non-partisan coalition formed to represent the interests of recording artists in public policy debates that affect the music industry. Members include Tony Bennett, Sheryl Crow, Don Henley, Billy Joel and Madonna.

*Amicus* Electronic Software Association is the U.S. trade association dedicated to serving the business and public affairs needs of companies that publish video games for game consoles, personal computers, handheld devices, and the Internet.

*Amicus* Association of American Publishers is the national trade association of the U.S. book publishing industry, whose members vigorously support free speech and strong intellectual property rights protection.

*Amici* American Society of Media Photographers, Inc. and Professional Photographers of America are trade associations that work to protect and promote the interests of

professional photographers who earn their livings by making photographs for publication in the various media.

*Amicus* Office of the Commissioner of Baseball manages the commercial use and licensing of Major League Baseball's (and members teams') intellectual property rights, including the copyrights in the broadcasts of all Major League Baseball games.

With regard to the issues raised in this litigation, *amici* have an enormous stake in combating Internet piracy. *Amici* are some of the principal victims of the piracy epidemic § 512(h) was enacted to combat. Like the sound recordings implicated by the RIAA's subpoena, the motion pictures produced and distributed by MPAA members and the copyrighted materials of other *amici* members are persistently subject to theft by Internet pirates. No tools are more critical in combating this digital piracy than the protections Congress enacted in the Digital Millennium Copyright Act of 1998 ("DMCA"). The brief submitted with this motion for leave provides the creative community's perspective on the issues raised in the litigation. The brief also responds to points made both by intervenor John Doe and his *amici* that the subpoena at issue not be enforced or alternatively that the subpoena provision of the DMCA be struck down as unconstitutional.

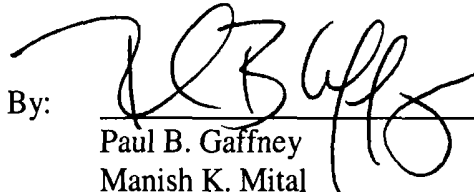
This motion by an intervenor Internet user is a case of first impression involving the construction of an important federal statute on which the Court has already accepted submissions from other *amici*. *Amici* listed above, representing several of the industries for whose benefit the statute was enacted, are familiar with the questions involved and believe they can contribute to the Court's understanding of the issues presented.

Counsel for *amici* have conferred with counsel for the principal parties in this case regarding the filing of this brief. Counsel for the RIAA and John Doe have consented to the


filing of this brief. Counsel for *amici* have alerted the North Carolina Attorney General's office (acting on behalf of the University of North Carolina at Chapel Hill) of their intention to file this brief, but the Attorney General's office declined to comment on *amici*'s request for consent. *Amici* therefore respectfully request that the Court accept for filing and consideration the brief filed herewith.

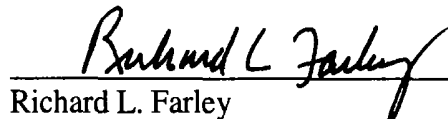
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### CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Consent Motion for Leave to File Brief as *Amici Curiae* and [proposed] order on the parties' counsel by placing a copy thereof enclosed in a first-class, postage-prepaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed to:

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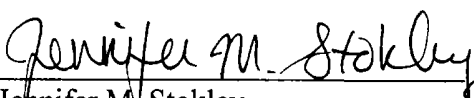
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This the 15<sup>th</sup> day of December, 2003

  
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